

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**LIBERTY MUTUAL INSURANCE
COMPANY,**

Plaintiff,

V.

**THE BLACK & DECKER
CORPORATION, BLACK & DECKER
INC., BLACK & DECKER (U.S.)
INC., EMHART CORPORATION,
and EMHART, INC.,**

Defendants.

C.A. No. 96-10804-DPW

**CASE NO. 1:04-CV-
10969-DPW
(Sutton Brook Site)**

**ASSENTED-TO MOTION OF LIBERTY MUTUAL INSURANCE
COMPANY TO FILE UNDER SEAL DOCUMENTS RELATED
TO ITS MOTION FOR SUMMARY JUDGMENT
WITH RESPECT TO THE SUTTON BROOK SITE**

Pursuant to Local Rule 7.2, plaintiff, Liberty Mutual Insurance Company ("Liberty Mutual"), hereby moves for leave to file under seal its Motion for Summary Judgment With Respect to the Sutton Brook Site, because said motion, supporting affidavit, and the accompanying memorandum of law, contain references to documents which were produced by defendants, The Black & Decker Corporation, et al. ("Black & Decker"), on a confidential basis pursuant to the Confidentiality Order in this lawsuit.

As grounds for this Motion, Liberty Mutual states as follows:

1. In the Motion, Affidavit and Memorandum, Liberty Mutual makes reference to, and appends copies as exhibits to its motion papers, of certain documents which were produced on a confidential basis by Black & Decker

pursuant to the Confidentiality Order in this case. The parties have agreed to maintain the confidentiality of such documents in any filings with the Court.

2. Accordingly, Liberty Mutual files this Motion to protect the allegedly confidential nature of the Black & Decker documents which, otherwise, would be available for inspection and copying by the general public.

3. Liberty Mutual files this Motion in good faith, and not for the purpose of delay. Black & Decker will not be prejudiced in any manner by Liberty Mutual's request, which is intended to protect Black & Decker's asserted confidentiality interests.

4. Accordingly, pursuant to Local Rule 7.2, Liberty Mutual requests that the Court enter an Order authorizing the sealing of its Motion for Summary Judgment With Respect to the Sutton Brook site, together with the accompanying Affidavit of Ralph T. Lepore, III, Esq. and the accompanying Memorandum of Law.

5. Liberty Mutual requests that the Court maintain the Motion, Affidavit and Memorandum under seal until this action is closed. At that time, Liberty Mutual requests that the Motion, Affidavit and Memorandum be returned to the undersigned counsel.

6. Black & Decker assents to this Motion to file the Motion, Affidavit and Memorandum under seal.

WHEREFORE, Liberty Mutual Insurance Company respectfully requests that the Court grant this motion and require that the Motion for Summary

Judgment and the accompanying Affidavit and Memorandum of Law be kept under seal, and for such other and further relief as this Court deems just and proper.

**LIBERTY MUTUAL
INSURANCE COMPANY**

By its attorneys,

/s/ Ralph T. Lepore III
Ralph T. Lepore, III (BBO #294420)
Janice Kelley Rowan (BBO #265520)
HOLLAND & KNIGHT LLP
10 St. James Avenue
Boston, MA 02116
(617) 523-2700

Dated: November 30, 2004

LOCAL RULE 7.1 CERTIFICATION

I hereby certify that pursuant to Local Rule 7.1, I spoke with Richard L. Binder, counsel for Black & Decker, and he agreed that this motion could be filed with the assent of the defendants.

/s/ Ralph T. Lepore III
Ralph T. Lepore III

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November, 2004, I caused a copy of the foregoing Assented to Motion to be served by hand upon Jack R. Pirozzolo, Esq., counsel to defendants, at Willcox, Pirozzolo & McCarthy, P.C., 50 Federal Street, Boston, MA 02110.

/s/ James M. Tierney
James M. Tierney